region interLATA affiliates will have market power. The answer is "no," notwithstanding the Commission's concern about BOC "control of bottleneck facilities."

BOC in-region interLATA affiliates will have no market power in the interexchange market. Initially they will have zero market share, and will be competing against experienced and resourceful incumbents. The Commission recently recognized that even with a 60 percent market share, AT&T had no market power in the interexchange market.[69] In making this determination, the Commission noted the following:

- "New facilities-based interexchange carriers have emerged, and the market has several muscular competitors with nationwide networks."[70]
- "Independent resellers have thrived and add diversity to the menu of service offerings available to customers."[71]
- "[V]irtually all consumers have the opportunity to choose from four or more primary interexchange carriers for 1-plus dialing."[72]
- "Tens of millions of consumers change their interexchange carriers each year."[73]
- "Customers have become more sophisticated in choosing a long distance service provider, and have demonstrated a willingness to

---

competitive level without driving away so many customers as to make the increase unprofitable.").

[69] See Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier, Order, 11 FCC Rcd. 3271 (1995).

[70] Id. at 3375 (Chong Statement).

[71] Id.

[72] Id. at 3372 (Ness Statement).

[73] Id.

change service providers to obtain a service plan that serves their needs best."[74]

- There is substantial excess capacity in the interexchange market.[75]
- "Equal access is available throughout virtually the entire nation."[76]

In view of these market conditions, several of which are mentioned in the Notice,[77] the Commission correctly concludes that BOC affiliates are not likely ever to be able to raise prices above competitive levels for their in-region domestic interLATA services.[78] This should end the market power inquiry, and the dominance issue.

The Notice goes on, however, to consider whether the BOC affiliates will possess market power in the interLATA market by virtue of BOC control over "bottleneck" facilities in the local exchange and exchange access markets.[79] This approach is defective for several reasons. First, the Notice cites a number of antitrust cases in support of this approach, but none of them actually do support the approach. Neither Griffith[80] nor Berkey[81] stand for the proposition that the mere

---

[74] Id. at 3375 (Chong Statement).

[75] Id. at 3303 ¶ 58, 3308 ¶ 70.

[76] Id. at 3375 (Chong Statement).

[77] Notice ¶ 137.

[78] Id. ¶ 133.

[79] The Notice asks whether BOC affiliates should be classified as dominant "if the BOCs have the ability to raise prices by raising the costs of their affiliates' interLATA rivals." Id. ¶ 132.

[80] United States v. Griffith, 334 U S. 100 (1948); overruled in part, 467 U.S. (1984), mot. denied, 105 S.Ct. 319 (1984).

[81] Berkey Photo, Inc. v. Eastman Kodak Co., 603 F.2d 263 (2d Cir. 1979), cert denied, 444 U.S. 1093 (1980).

ability to raise rivals' costs confers market power.[82] Rather, the cases deal with the legal consequences of using (or abusing) monopoly power in one market in order to obtain a monopoly or even an unfair competitive advantage in another -- known as "monopoly leveraging." But the concept of monopoly leveraging has nothing whatsoever to do with the determination of whether a firm possesses market power in the first instance.

In addition, it is worth noting that the Berkey court was careful not to discourage large firms from competing vigorously in related markets. The court wrote:

> A large firm does not violate [the federal antitrust laws] simply by reaping the competitive rewards attributable to its efficient size, nor does an integrated business offend the Sherman Act whenever one of its departments benefits from association with a division possessing a monopoly in its own market. So long as we allow a firm to compete in several fields, we must expect it to seek the competitive advantages of its broad-based activity -- more efficient production, greater ability to develop complementary products, reduced transaction costs, and so forth. These are gains that accrue to any integrated firm, regardless of its market share, and they cannot by themselves be considered uses of monopoly power.

Berkey at 275. In considering dominant carrier regulation, the Commission is going too far, and threatens to inhibit the pro-competitive utilization of the economies identified by the Berkey court.

---

[82] Virtually all firms have the ability to raise their rivals' costs in some manner. For example, a firm can raise its rivals' costs by filing a lawsuit, mounting an aggressive advertising campaign or similar business actions having nothing to do with market power.

Rather than recognizing the benefits of affiliation and integration described by the Berkey court, the Notice appears ready to punish the BOCs *now* for the *possibility* that their in-region, interLATA affiliates might be successful, even when that success is achieved through entirely lawful means. For example, the Notice seeks comment on the possibility that a BOC affiliate might gain market power through means other than anticompetitive conduct, i.e., through the strength of a BOC's brand identity.[83] In other words, it would be a mistake for the Commission to use *possible* future BOC success in their in-region interLATA markets as the basis for dominant carrier regulation. This would be a regulatory Catch 22.

B. BOC Market Power in the Local Exchange Market Can No Longer Be Presumed

The Commission presumes throughout the Notice that the BOCs possess market power in the local exchange and exchange access markets through their "control of bottleneck facilities."[84] In view of the Commission's recent interconnection order[85] and other pervasive regulation at both the state and federal level that is designed to open the local exchange market to competition, it can no longer be assumed that the BOCs possess market power in every local exchange and exchange access market. BOCs lack the ability to raise prices because their rates are regulated, and they cannot exclude entry because that entry has been mandated by state and federal authorities.

---

[83] Notice ¶ 134.

[84] Id. ¶¶ 16,18.

[85] See generally First Report and Order, CC Docket No. 96-98, note 40 supra.

Even if the BOCs currently possess market power in the local loop, any such power will soon be eliminated as the increasing demands for access and interconnection are met. By the time the first BOC is ready to serve its first in-region, interLATA customer, the local exchange market served by that BOC undoubtedly will look very different than it does today. "Market power, to be meaningful for antitrust purposes, must be durable."[86] There is no reason why it should be any different for FCC purposes.[87]

C. There Are Adequate Safeguards To Protect Against Cross-Subsidization And Unlawful Discrimination

Even if BOCs are still viewed as possessing market power in the local exchange or exchange access market through control of essential facilities, the separate affiliate requirement and other safeguards are more than adequate to guard against the two manifestations of leveraging: improper allocation of costs and

---

[86] Reazin v. Blue Cross & Blue Shield, 899 F.2d 951, 968 (10th Cir.)(dictum), cert denied, 110 S.Ct. 3241 (1990).

[87] In any event, the fact that a carrier may be found to be a dominant provider of services in one market does not imply that it cannot be classified as nondominant in another market. For example, the Commission found AT&T to be a nondominant provider of non-IMTS (International Message Telephone Service) even though AT&T was found to be a dominant provider of IMTS. See International Competitive Carrier Policies, 102 FCC 2d 812, 830-38 (1985); see also American Telephone & Telegraph (AT&T) Application under Section 214 of the Communications Act for authority to acquire certain lines of Western Union Corporation, Nos. W-P-C-6622 and I-T-C-90-163, Memorandum Opinion and Order, 6 FCC Rcd. 115 (1990).

unlawful discrimination.[88] Any attempt to leverage the interLATA market would be readily detectable and punishable under existing rules and laws.

Strangely, the Notice raises the cost allocation concern and then dismisses in virtually the same breath. It states that the Commission is "concerned with improper allocation of costs only to the extent it enables a BOC affiliate to set retail interLATA prices at predatory levels (i.e., below cost), drive out its interLATA competitors, and then raise and sustain retail interLATA prices significantly above competitive levels." In view of the size and strength of the incumbent interexchange carriers, the large excess capacity and other factors, the Commission ventures that the BOCs' ability to engage in predation in the long distance market is "questionable."[89] U S WEST would go further; it is downright impossible.[90]

In general, U S WEST contends that the structural safeguards of section 272, price cap regulation of BOCs and accounting safeguards are sufficient. We resoundingly support the Commission's observation that "existing safeguards have worked reasonably well and generally have been effective, in conjunction with our regular audits of the BOCs, in deterring the improper allocation of costs and

---

[88] Notice ¶¶ 7-8, 134.

[89] Id. ¶ 137.

[90] Incumbent LECs are even less likely to cross-subsidize in view of the forward-looking cost standards contained in the First Report and Order in CC Docket No. 96-98.

unlawful discrimination."[91] U S WEST also agrees that price cap regulation of BOCs' access services reduces the potential for cost shifting.[92]

In addition, Congress has already ensured that BOCs will not be allowed to enter the in-region interLATA market until numerous conditions are met, including the Section 271(c)(2)(B) competitive checklist. That checklist requires, among other things, interconnection in accordance with Section 251 and nondiscriminatory access to network elements, poles, ducts, conduits, rights-of-way, 911 and E911 services, directory assistance services, operator call completion services, databases and associated signaling necessary for call routing and completion, and such services or information to allow the requesting carrier to implement local dialing parity.

Moreover, Congress expressly affirmed the continuing validity of the federal antitrust laws.[93] Those laws provide remedies for unreasonable denial of access to an essential facility.

Against this backdrop, regulating BOC affiliates as dominant carriers would not provide any additional protection. Indeed, it would do nothing to address the perceived problems of discrimination and cross-subsidy. Rather, it would impose additional costs on the BOC affiliates with no rational justification.[94]

---

[91] Notice ¶ 146.

[92] Id. ¶ 136.

[93] See, e.g., 1996 Act, 100 Stat. at 99 § 273(e)(3); Conference Report on S.652, 104th Cong., 2d Sess., at 200.

[94] Throughout the Notice, the Commission repeatedly expresses concern for the BOC affiliates' rivals' costs and the potential for them to be raised by BOC actions. Yet

Classifying BOC in-region, interLATA affiliates as dominant would subject these entities to unnecessary and burdensome regulatory requirements having nothing whatsoever to do with the harms purportedly sought to be prevented. Requiring a carrier with no market share to file cost-supported tariffs for new services on ninety days notice, for example, would no effect at all on the ability of the affiliated LEC to exercise market power.[95] The Commission has repeatedly determined that traditional tariff regulation is unnecessary in order to ensure lawful rates in a competitive environment -- in fact would be counterproductive.[96] In other words, even if all of the chimera specified in the Notice were accurate, regulating a subsidiary as a dominant carrier would have no impact on resolving the Commission's fears. Dominant carrier regulation of a carrier without market power accomplishes nothing.

Moreover, classifying BOC affiliates as dominant would reintroduce an asymmetric and unbalanced regulatory scheme that the Commission discarded in the AT&T Reclassification Order. In her separate statement Commissioner Chong noted that "AT&T's competitors enjoy the freedom of streamlined regulation" while "AT&T jumps through regulatory hoops."[97] She noted that a "vigorous competitive

---

the Commission seems insensitive to the costs that would be imposed on the BOC affiliates as a result of dominant carrier regulation.

[95] These requirements include price cap regulation, filing of cost data to support new services, and Section 214 approval to construct, acquire, lease, extend or operate a line as well as to discontinue, reduce or impair service.

[96] See Tariff Filing Requirements for Interstate Common Carriers, 7 FCC Rcd. 8072, 8073, 8079 (1992); see also Competitive Carrier, 77 FCC 2d at 358-59.

[97] AT&T Reclassification Order, 11 FCC Rcd. at 3376 (Chong Statement).

market requires a fair start and equally applicable rules," and that "the public interest is ill-served by a regulatory process that builds in delay for one service provider and forces it to show its hand to its competitors before it can introduce new service offerings or rate reductions in the market."[98] These observations are just as true for the BOC affiliates as they were for AT&T. The Commission should continue to "seek ways to expedite the trend toward full competition, and less regulation, in [the interexchange] market."[99] Classifying BOC affiliates as dominant carriers would be a major step in the wrong direction.

V. AFFILIATES SHOULD NOT BE CLASSIFIED AS BOCS OR INCUMBENT LECS UNLESS THEY ARE SUCCESSORS OR ASSIGNEES OF THE BOCS IN THE PROVISION OF LOCAL EXCHANGE SERVICE

A quick reading of the 1996 Act makes it clear that a BOC subsidiary which provides local exchange service is not subject to the provisions of Section 251(c) of the 1996 Act unless it actually operates to displace the incumbent LEC as the prime provider of local exchange service is a region. However, in a very troubling passage in the Notice, the Commission seems to conclude that whenever a "BOC" affiliate is engaged in local exchange activities" it is "therefore subject to Section 251(c). . ."[100] Accordingly, tentatively concludes the Notice, any subsidiary engaged in local exchange activities would not only need to offer all of its telecommunications

[98] Id.

[99] Id.

[100] Notice ¶ 79.

services (exchange or non-exchange) as an incumbent LEC (subject to Section 271(c)), but would be required to deal with the Section 272 subsidiary on an arms-length basis subject to the rigorous separation requirements proposed in the Notice. In other words, the Notice seems to imply that: 1) any BOC affiliate which provides local exchange services could become a BOC and an incumbent LEC; and, 2) a BOC Section 272 subsidiary could not, by definition, provide any service defined as a local exchange service. We submit that a plain reading of the 1996 Act prohibits such an interpretation.

In this context U S WEST is quite comfortable with the Commission's analysis that, should a BOC transfer or assign its LEC operation to a corporate affiliate, the successor or assignee corporation will also be classified as a BOC. The 1996 Act clearly specifies that any successor or assignor of a BOC which provides local exchange service is likewise defined as a BOC.[101] The 1996 Act also excludes from the definition of BOC any other affiliate of a BOC except one which is a "successor or assign" of the BOC "which provides wireline telephone exchange service."[102] The key phase here is "successor or assign." This same phrase is used in the key definition of "incumbent LEC," a phrase which includes members of the exchange carrier association plus any person who became "a successor or assign of a member."[103] Other LECs can be defined as incumbent LECs if they achieve

[101] 1996 Act, 110 Stat. at 58 § 3(a)(35)(B).

[102] Id.

[103] Id. at 65 § 251(h)(1)(B)(ii).

comparability with the incumbent LEC in the provision of local exchange service.[104] However, a BOC subsidiary or affiliate cannot be a BOC or an incumbent LEC unless it is a successor or assign of the BOC in the provision of local exchange service. The mere provision of local exchange service by an affiliates does not make it an incumbent LEC unless it also fits the successor or assign classification.

Standard legal analysis is helpful here. Although the terms "successor and "assign" are not defined in the 1996 Act, they do have commonly accepted legal meanings, all of which encompass the concept of conveyance of property or transfer of some legally recognizable interest.

The word "'successor' has often been defined as 'one who takes the place that another has left, and sustains the like part or character.'" Safer v. Perper, 569 F.2d 87, 95 (D.C. Cir. 1977) (quoting Wawak Co. v. Kaiser, 90 F.2d 694, 697 (7th Cir. 1937)); accord H.K.H. Co. v. American Mortg. Ins. Co., 685 F.2d 315, 318 (9th Cir. 1982). "To be a successor, 'in all material respects the succeeding corporation should stand in the boots of the old one.'" In re: Stanley Hotel, Inc., 13 B. R. 926, 933 (Bankr. D.Colo. 1981) (quoting Dunkley Co. v. California Packing Corp., 277 F. 996, 1000 (2d Cir.), cert. denied, 257 U.S. 644 (1921)). A "successor in interest" similarly "continue(s) to retain the same rights as the original owner without a change in ownership. City of New York v. Turnpike Development Corp., 36 Misc. 2d 704, 233 NYS 2d 887, 889 (1962). Similarly an assign -- the recipient of an assignment -- is the transferee of a specified interest in property (or some other

[104] Id. at 65-66 § 251(h)(2).

thing of value). Spielman v. Acme Nat'l. Sales Co., 169 A.D. 2d 218, 572 NYS 2d 400 (1991); Restatement of the Law Contracts 2d § 317(1)(1981).

A section 272 subsidiary would not become a successor or assign of a BOC (or an incumbent LEC) solely by virtue of providing local exchange service. In order to become such a successor or assign, the subsidiary would need to actually displace the incumbent LEC (or the provider of local exchange service -- or otherwise become the BOC's successor or assign in the provision of local exchange service. In other words, some aspect of the local exchange business sufficient to create a legally recognizable successor or assignor status must actually be transferred to the subsidiary. If Congress had desired to classify any BOC affiliate which provides local exchange service as a BOC or an incumbent LEC, it would not have limited this classification to successors and assigns.

This fundamental proposition must be true or the structure established by the 1996 Act collapses. The 1996 Act specifically provides that BOC affiliates are not BOCs unless they are successors or assigns of the BOC and provide local exchange service.[105] Similarly, an affiliate of an incumbent LEC is also an incumbent LEC if it is a successor or assign of a member of the exchange carrier association.[106] A Section 272 subsidiary by definition must be separated from "any operating company that is subject to the requirements of Section 251(l)." Similarly, any BOC which is subject to Section 251(c) may not provide interLATA service.[107] In

[105] Id. at 59 § 3(a)(35)(C).

[106] Id. at 65 § 251(h)(1)(B)(ii).

[107] Id. at 92 § 272(a)(1).

other words, it is impossible as a matter of statute for a Section 272 subsidiary to be either a BOC or an incumbent LEC, because a Section 251(c) company may not provide interLATA service.

However, the statute also expressly permits the Section 272 subsidiary to provide local exchange services. Specifically, the Section 272 subsidiary may "market or sell telephone exchange services provided by the [BOC so long as] that company permits other entities offering the same or similar services to market or sell its telephone exchange services."[108] Resale of local exchange service clearly is the provision of local exchange service. Thus, any interpretation of the 1996 Act which would operate to prohibit a Section 272 subsidiary from providing local exchange services would be flatly inconsistent with the 1996 Act itself.

In fact, utilizing this plain meaning of the successors and assigns language in the statute leads to fairly simple and straightforward analysis. If an affiliate of a BOC or an incumbent LEC really succeeds in interest to the local exchange operation of a predecessor in interest, the Section 251(c) obligations follow the transfer. For example, if a BOC or other incumbent LEC transferred its local exchange assets to an affiliate, that affiliate would probably be both a successor and an assign of the transferring LEC. On the other hand, the affiliate would not become a successor or assign solely by virtue of providing local exchange service. Here the proper analysis as to regulatory statutes is likewise simple. So long as the affiliate is not a successor or assign of the LEC, it can conduct its local exchange

[108] Id. at 94 § 272(g)(1).

and interexchange operations in precisely the same manner as any other competitive LEC. In this context, the subsidiary has a right to purchase interconnection from the incumbent LEC itself (on the same terms and conditions as any other carrier (IXC or LEC). It would, when it performs LEC functions, be subject to Section 251(b) of the 1996 Act, but not Section 251(??).[109]

This analysis assumes a Section 272 subsidiary -- mandated as it is by law to conduct its operations separate from the incumbent LEC. Should a BOC affiliate not subject to Section 272 separations rules desire to offer exchange services, different analysis might be warranted based on whether the two entities are really operating as one. However, given the nature of the Section 272 separation rules, no argument can possibly be made that a Section 272 subsidiary is really the "alter ego" of the incumbent LEC. The kinds of separations which might be appropriate should a non-Section 272 subsidiary offer exchange services can be addressed if it actually arises.

The foregoing analysis presents a measured and legally mandated way of complying with the 1996 Act from the perspective of both the incumbent LEC and the subsidiary. It also recognizes, as does the 1996 Act, that a BOC or other incumbent LEC cannot avoid the operation of Section 251(c) by transferring or assigning its LEC operations to a subsidiary. We submit that more stringent rules

[109] Of course, if the subsidiary became a comparable carrier under Section 251(h)(23), it could be treated as an incumbent LEC under Section 251(c).

which sought to treat affiliates which were neither successors or assigns to the LEC's exchange business would be immaterial and could countermand the statute.

VI. ENFORCEMENT OF SECTIONS 271 AND 272

Section 271(d)(6) provides a simple supplement to the Commission's existing enforcement authority and allows the Commission to take remedial action should a BOC cease to meet any of the conditions under which prior approval to offer in-region interLATA services was granted. Section 271(d)(6) specifically provides:

> (A) Commission authority.--If at any time after the approval of an application under paragraph (3), the Commission determines that a Bell operating company has ceased to meet any of the conditions required for such approval, the Commission may, after notice and opportunity for a hearing--
>
> (i) issue an order to such company to correct the deficiency;
>
> (ii) impose a penalty on such company pursuant to title V; or
>
> (iii) suspend or revoke such approval.
>
> (B) Receipt and review of complaints.--The Commission shall establish procedures for the review of complaints concerning failures by Bell operating companies to meet conditions required for approval under paragraph (3). Unless the parties otherwise agree, the Commission shall act on such complaint within 90 days.[110]

By these provisions, Congress provided the Commission with authority to review a BOC's continuing satisfaction of Section 271 conditions. The Commission is charged with establishing a review process including notice to the parties and the

[110] 47 USC § 271(d)(6).

opportunity for a hearing. Congress also set a specific time limit -- 90 days -- for the Commission to act on such complaints unless otherwise agreed by the parties.

In the Notice, the Commission seeks comment on the manner in which it should adjudicate and resolve such Section 271 complaints. The Commission proposes an array of new processes and standards under which Section 271 reviews might take place. The Commission has gone so far as to suggest that even the burden of proof might be shifted to a defending BOC once a complainant established a prima facie showing that a BOC had ceased to meet the conditions of Section 271(d)(3). Instead of creating legally questionable new standards and processes for the implementation of this simple provision, the Commission should instead focus on utilizing its current complaint process and improving it to the extent that it could accommodate the expedited review necessary under Section 271.

U S WEST believes that there is no reason for the Commission to propose new procedures to implement the enforcement provisions of Section 271. There is also little need for the Commission to establish additional reporting requirements for the BOCs. The Commission must certainly be aware that alert BOC customers and competitors alike will be on the constant lookout for any perceived BOC deficiencies, and more than happy to report on those items directly to the Commission. These customers and competitors include some of the largest and most sophisticated telecommunications providers in the world, including AT&T, MCI, and Sprint. These companies are certainly no strangers to the Commission's current complaint process. Additionally, the Commission will have a wealth of

knowledge provided by the BOCs themselves in the form of biannual audits specified in the Act and other similar Commission reporting requirements. It is highly unlikely that actionable claims will go unnoticed or unaddressed.

The current enforcement and complaint process detailed under Section 206-209 of the Communications Act provides ample opportunity for complainants to present their claims to the Commission. The current process has been in place for many years and is a known quantity from a legal and procedural standpoint. Issues of due process and the extent of Commission authority are well established. It would be senseless for the Commission to create an entirely new process and standard of review for a statutory provision which by its terms will expire in three to four years.

It is even more puzzling why the Commission believes that it should modify the standard for review in these Section 271 complaint cases, going so far to suggest that it might shift the burden of proof to a defending BOC. The Commission cites the current Section 202(a) tariff discrimination provisions as an example of where the burden is shifted once a prima facie case of discrimination is alleged. This is an apples to oranges comparison. The tariff review process and the formal complaint process are entirely different legal procedures with entirely different potential outcomes. The Commission should not use the tariff review process as justification for employing a shifted burden of proof standard in Section 271 complaint cases.

The Section 204 tariff service process is limited to the review of tariffs voluntarily filed by telecommunications common carriers. It is wholly forward-

focused and preventive in nature. Once a tariffed is filed, and before it becomes effective, parties and the Commission have an opportunity to review the tariff for legal deficiencies, including unreasonable discrimination. The Commission has the authority under Section 204 to declare a tariff to be unreasonably discriminatory and thus reject it before it takes effect. The burden of proving the reasonableness of a tariff lies with the filing carrier.

This is significantly different than the complaint process where the Commission is adjudicating a formally filed pleading in which past or present wrongful conduct is being alleged (including a complaint concerning an effective tariff). The complaint process is much more judicial in nature and includes the potential for significant enforcement actions by the Commission. Refunds, fines, and forfeitures may be levied against parties in a complaint proceeding. This potential for penal remedies obligates the Commission to follow more traditional burden of proof standards. No burden of proof shifting should take place in any complaint process including the any review performed under Section 271(d)(6).

Additionally, shifting the burden of proof in a case where the Commission has already made an affirmative finding of compliance seems irrational. Once the Commission has approved a BOCs application, ensuring that the BOC has met all necessary conditions to offer in-region interLATA services, it would be more logical and reasonable to presume that the BOC remained in compliance rather than the opposite.

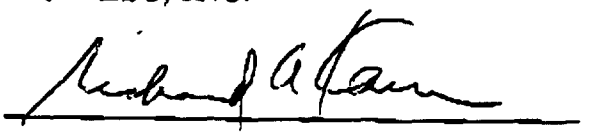
Finally, to the extent that the Commission is suggesting in the Notice that the Section 271(d)(6) process is a substitute for the current common carrier complaint process, it is incorrect. By its terms, Section 271(d)(6) is limited to a review of continuing compliance with Section 271 provisions allowing a BOC to enter the in-region interLATA telecommunications business. Section 271(d)(6) has no application beyond this single purpose and cannot be invoked by simply alleging BOC violation of an unrelated provision or Commission order.

The best course for the Commission is to use the current complaint process modified to accommodate the 90-day review timeframe. This can be accomplished through shortened pleading and review cycles. A key component of such a process would include a process for sanctions should the Commission determine that a complaint or allegation was frivolous or filed for anticompetitive reasons. This will

ensure that the Section 271(d)(6) process is not misused and complaints made under this expedited process are in fact legitimate.

Respectfully submitted,

U S WEST, INC.

By: 

Robert B. McKenna
Richard A. Karre
Gregory L. Cannon
Sondra J. Tomlinson

Suite 700
1020 19th Street, N.W.
Washington, DC 20036
(303) 672-2861

Its Attorneys

Of Counsel,
Dan L. Poole

August 15, 1996

CERTIFICATE OF SERVICE

I, Rebecca Ward, do hereby certify that on this 15th day of August, 1996, I have caused a copy of the foregoing **COMMENTS OF U S WEST, INC.** to be served via hand-delivery upon the persons listed on the attached service list.

Rebecca Ward

Rebecca Ward

(CC96149.COS/BM/lh)

James H. Quello
Federal Communications Commission
Room 802
1919 M Street, N.W.
Washington, DC 20554

Reed E. Hundt
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, DC 20554

Susan P. Ness
Federal Communications Commission
Room 832
1919 M Street, N.W.
Washington, DC 20554

Rachelle B. Chong
Federal Communications Commission
Room 844
1919 M Street, N.W.
Washington, DC 20554

Regina M. Keeney
Federal Communications Commission
Room 500
1919 M Street, N.W.
Washington, DC 20554

Janice M. Myles
Federal Communications Commission
Room 544
1919 M Street, N.W.
Washington, DC 20554

Include 3 x 5 Diskette w/Cover Letter)

A. Richard Metzger, Jr.
Federal Communications Commission
Room 500
1919 M Street, N.W.
Washington, DC 20554

Carol Mattey
Federal Communications Commission
Room 544
1919 M Street, N.W.
Washington, DC 20554

Melissa Waksman
Federal Communications Commission
Room 544
1919 M Street, N.W.
Washington, DC 20554

Donald Stockdale
Federal Communications Commission
Room 544
1919 M Street, N.W.
Washington, DC 20554

(CC96149.BM/lh)
Last Update: 8/14/96

International Transcription
Services, Inc.
Suite 140
2100 M Street, N.W.
Washington, DC 20037